

## § 2440.2

from settlement, location, sale, selection, entry, lease, or other forms of disposal under the public land laws, including the mining and mineral leasing laws. The segregative effect of each classification or proposed classification will be governed by applicable laws and regulations, and will be stated in the classification notice or decision.

### § 2440.2 General criterion.

The public lands classified or proposed to be classified under the regulations of this part will be kept open to (i.e., not segregated from) as many forms of disposal as possible consistent with the purposes of the classification and the resource values of the lands.

### § 2440.3 Specific criteria for segregative effect of classification for retention.

(a) Public lands classified or proposed to be classified for retention for multiple-use management will be segregated from those forms of disposal which, if the lands remain open thereto, could:

(1) Interfere significantly with the management of the lands under principles of multiple use and sustained yield, or

(2) Impair or prevent, to an appreciable extent, realization of public values in the lands, or

(3) Impair or prevent, to an appreciable extent, realization of the objectives of retention and management set forth in part 2420, or

(4) Lead to unnecessary expenditures of public or private funds arising out of individual efforts to acquire public lands under laws, which are in fact not applicable, because of the nature of the resources of the lands.

(b) In applying the criteria in paragraph (b)(1) of this section, land shall not be closed to mining location unless the nonmineral uses would be inconsistent with and of greater importance to the public interest than the continued search for a deposit of valuable minerals.

### § 2440.4 Specific criteria for segregative effect of classification for disposal.

Public lands classified or proposed to be classified for disposal will be seg-

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regated from those forms of disposal which, if the lands remained open thereto, could interfere with the orderly disposal of the lands pursuant to appropriate law. Public lands classified or proposed to be classified for sale under the Public Land Sale Act (78 Stat. 988, 43 U.S.C. 1411–18) will be segregated from all forms of disposal under the mining and mineral leasing laws.

## PART 2450—PETITION-APPLICATION CLASSIFICATION SYSTEM

### Subpart 2450—Petition-Application Procedures

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SOURCE: 35 FR 9563, June 13, 1970, unless otherwise noted.

### Subpart 2450—Petition-Application Procedures

#### § 2450.1 Filing of petition.

(a) When (1) land must be classified or designated pursuant to the authorities cited in § 2400.0–3 before an application may be approved and (2) the filing of applications is permitted prior to classification, the application together with a petition for classification on a form approved by the Director (hereinafter referred to collectively as a *petition-application*) must be filed in accordance with the provisions of § 1821.2 of this chapter. Lists indicating the proper office for filing of applications may be obtained from the Director or any other officer of the Bureau of Land Management. Copies of the petition for classification form and the application forms may be obtained from the proper offices or from the Bureau of Land Management, Washington, DC 20240.

#### § 2450.2 Preliminary determination.

Upon the filing of a petition-application, the authorized officer shall make

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a preliminary determination as to whether it is regular upon its face and, where there is no apparent defect, shall proceed to investigate and classify the land for which it has been filed. No further consideration will be given to the merits of an application or the qualifications of an applicant unless or until the land has been classified for the purpose for which the petition-application has been filed.

### § 2450.3 Proposed classification decision.

(a) The State Director shall make and issue a proposed classification decision which shall contain a statement of reasons in support thereof. Such decisions shall be served upon (1) each petitioner-applicant for the land, (2) any grazing permittee, licensee, or lessee on the land, or his representative, (3) the District Advisory Board, (4) the local governing board, planning commission, State coordinating committee, or other official or quasi-official body having jurisdiction over zoning in the geographic area within which the lands are located, and (5) any governmental officials or agencies from whom the record discloses comments on the classification have been received. If the decision affects more than 2,560 acres and would lead to the disposal of the lands, the decision will also be published in accordance with the provisions of subpart 2462.

(b) When there are multiple petition-applications for the same land, the proposed classification decision shall state which petition-application, if any, will be entitled to preference under applicable law; or where no petition-application has been filed for the purpose for which the land is proposed to be classified, the decision shall so state.

(1) When multiple petition-applications have been filed for the same land, the one first filed for the purpose for which the land is classified will be entitled to preference under applicable law.

(2) When two or more petition-applications have been simultaneously filed for the purpose for which the land is classified, the petition-application entitled to preference will be the first to be selected by drawing.

(3) If no petition-application has been filed for the purpose for which it is proposed to classify the land, the proposed decision shall state that the land will be opened to application by all qualified individuals on an equal-opportunity basis after public notice.

### § 2450.4 Protests: Initial classification decision.

(a) For a period of 30 days after the proposed classification decision has been served upon the parties listed in § 2450.3(a), protests thereto may be filed by an interested party with the State Director. No particular form of protest is required under this subparagraph, it being the intent of this procedure to afford the State Director the opportunity to review the proposed classification decision in the light of such protests.

(b) If no protests are filed within the time allowed, the proposed classification action shall be issued as the initial classification decision of the State Director, and shall be served on the petitioner-applicants and upon grazing permittees, licensees, or lessees.

(c) If protests are timely filed, they shall be reviewed by the State Director, who may require statements or affidavits, take testimony, or conduct further field investigations as are deemed necessary to establish the facts. At the conclusion of such review, the State Director shall issue an initial classification decision, either revised or as originally proposed, which shall be served on all interested parties.

### § 2450.5 Administrative review.

(a) For a period of 30 days after service thereof upon all parties in interest, the initial classification decision of the State Director shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review.

(b) If, 30 days from receipt by parties in interest of the initial decision of the State Director, the Secretary has not either on his own motion, or motion of any protestant, petitioner-applicant, or the State Director, exercised supervisory authority for review, the initial classification decision shall become the final order of the Secretary.